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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 IN RE APPLICATION OF PJSC  
11 URALKALI FOR AN ORDER  
12 PURSUANT TO 28 U.S.C. § 1782.

CASE NO. C18-1673JLR  
  
ORDER GRANTING  
APPLICATION TO CONDUCT  
DISCOVERY PURSUANT TO 28  
U.S.C. § 1782

13  
14 **I. INTRODUCTION**

15 Before the court is Petitioner PJSC Uralkali's ("Uralkali") application pursuant to  
16 28 U.S.C. § 1782 to conduct discovery for use in a foreign proceeding. (Appl. (Dkt. # 1);  
17 Mem. (Dkt. # 1-1).) Respondent John E. McCaw, Jr. opposes Uralkali's application.  
18 (Resp. (Dkt. # 16).) Uralkali filed a reply. (Reply (Dkt. # 20).) The court has considered  
19 the application, the parties' submissions concerning the application, the relevant portions

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1 of the record, and the applicable law. Being fully advised,<sup>1</sup> the court GRANTS  
2 Uralkali’s application for the reasons set forth below.

## 3 **II. BACKGROUND**

4 This matter arises out of foreign proceedings related to Uralkali’s unsuccessful bid  
5 to acquire a Formula One racing team. (*See* Mem. at 2-4.) Uralkali is a public joint stock  
6 company based in Russia. (Lloyd Decl. (Dkt. # 1-3) ¶ 4.) In July 2018, Force India  
7 Formula One Team Limited (“Force India”), a Formula One racing team, entered  
8 administration, the English equivalent of bankruptcy. (Mem. at 3.) Shortly thereafter,  
9 Uralkali learned that Force India’s administrators—Geoffrey Rowley and Jason Baker  
10 (collectively, “the Administrators”)—were accepting bids for the acquisition of Force  
11 India. (*Id.*) On August 3, 2018, Uralkali submitted an offer to acquire Force India. (*Id.*)  
12 Three days later, at the request of the Administrators, Uralkali submitted a modified  
13 offer. (*Id.*)

14 Uralkali’s bid was unsuccessful. (*Id.*) On August 7, 2018, the Administrators  
15 declared Racing Point (UK) Limited (“Racing Point”) the winning bidder. (Resp. at 2-3.)  
16 Racing Point’s bid was funded by a consortium led by Lawrence Stroll, a Canadian  
17 businessperson, and comprising several investors, including Mr. McCaw, a  
18 businessperson who resides in Seattle, Washington (“the Stroll Consortium”). (Mem. at  
19 3-4; Resp. at 2-3.) Uralkali later learned that the Stroll Consortium purchased Force  
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21 <sup>1</sup> No party requests oral argument (*see generally* Pet.; Mem.; Resp.), and the court has  
22 determined that oral argument would not be of assistance in deciding the application, *see* Local  
Rules W.D. Wash. LCR 7(b)(4).

1 India's assets for less than what Uralkali had proposed in its modified offer, "le[ading]  
2 Uralkali to believe that the Stroll Consortium was given an unfair advantage in the bid  
3 process." (Lloyd Decl. ¶ 11.)

4 In September 2018, Uralkali filed an action against the Administrators ("the  
5 English Action") in the High Court of Justice, Business and Property Courts of England  
6 and Wales ("the English Court"). (*See id.* ¶ 2, Ex. A ("Particulars of Claim").) In brief,  
7 Uralkali alleges that the Administrators made material misrepresentations during the bid  
8 process and negligently administered the bid process. (Particulars of Claim ¶¶ 4, 6,  
9 40-45, 51, 55-59.) The Administrators deny Uralkali's allegations. (Fisher Decl. (Dkt.  
10 # 17) ¶ 3, Ex. B ("Defence").) Among other defenses, the Administrators assert that  
11 Racing Point won the bid process because Uralkali failed to make "any reasonably viable  
12 proposal" to acquire Force India. (Defence ¶ 2.9.)

13 Uralkali petitions the court to authorize a subpoena to compel Mr. McCaw to  
14 produce certain documents and oral testimony for use in the English Action. (Mem. at 1,  
15 5.) Uralkali contends that Mr. McCaw, as a member of the Stroll Consortium, "can  
16 provide documents and testimony concerning the Stroll Consortium's strategy for  
17 participating in the bid process," including "any attempts to attain undue favor or  
18 advantage at any point in the bid process" and "communications among members of the  
19 Stroll Consortium concerning Uralkali and its bids." (*Id.* at 5.) Mr. McCaw opposes  
20 Uralkali's application. He calls the application "a classic fishing expedition" (Resp. at 2)  
21 and asserts that he has "no knowledge of Mr. Stroll's or Racing Point's bidding strategy  
22 or any communications between the Administrators and either Mr. Stroll, Racing Point,

1 Racing Point’s advisors or anyone else associated with the winning bid” (McCaw Decl.  
2 (Dkt. # 17-1) ¶ 5).

3 In late 2018, Uralkali filed a similar application under § 1782 in the Southern  
4 District of New York. (Taft Decl. (Dkt. # 22) ¶¶ 3-4.) Uralkali sought an order directing  
5 another member of the Stroll Consortium, John Idol, to produce documents and provide  
6 deposition testimony related to the English Action. (*Id.*) In opposing Uralkali’s  
7 application, Mr. Idol asserted—just as Mr. McCaw does here—that he had “no  
8 knowledge of Mr. Stroll’s or Racing Point’s bidding process or any communications  
9 between the Administrators and Mr. Stroll, Racing Point, their advisors or anyone else  
10 associated with the winning bid.” (*Id.* ¶ 5 (quotation marks omitted).) The Honorable  
11 Edgardo Ramos, United States District Judge, granted Uralkali’s application. (*Id.* ¶ 8,  
12 Ex. B (“S.D.N.Y. Order”) at 4.)

13 The court now considers Uralkali’s application.

### 14 **III. ANALYSIS**

#### 15 **A. Service**

16 At the outset, the court addresses Mr. McCaw’s argument that the court should  
17 dismiss Uralkali’s application for failure to comply with the court’s order directing  
18 service on Mr. McCaw. (Resp. at 11-12.) On October 24, 2018, the court ordered  
19 Uralkali to effect service on Mr. McCaw within 21 days and file proof of service within  
20 seven days of doing so. (10/24/18 Order (Dkt. # 8) at 1.) The court stated that it would  
21 dismiss Uralkali’s application if Uralkali failed to comply with the order. (*Id.* at 1.)

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1 In the days that followed, Uralkali made several attempts to serve Mr. McCaw in  
2 person at his office and his residence. (Sisk Decl. (Dkt. # 11) at 1-2 (describing attempt  
3 to serve Mr. McCaw at his residence on October 30, 2018); Torres Decl. (Dkt. # 12) at  
4 1-2 (describing attempts to serve Mr. McCaw at his residence on October 30, October 31,  
5 November 1, and November 2, 2018); Nascimento Decl. (Dkt. # 13) at 1-2 (describing  
6 attempt to serve Mr. McCaw at his company on October 30, 2018).) On November 2,  
7 2018, a process server left papers with a guard on duty at the gated community where Mr.  
8 McCaw lives, after the guard refused the server entry to the community. (Torres Decl. at  
9 2.) That day, Uralklai also served Mr. McCaw at his residence by first-class mail.  
10 (Damianick Decl. (Dkt. # 9) at 1-2.) Uralkali filed proof of service 12 days later, on  
11 November 14, 2018. (*Id.*)

12 The court need not determine whether Uralkali properly served Mr. McCaw. Mr.  
13 McCaw does not move to dismiss Uralkali's application for insufficient service of  
14 process. (*See generally* Resp.) Nor does Mr. McCaw contest that, in effecting service by  
15 mail, Uralkali notified him of the basis of the application and the information Uralkali  
16 seeks. (*See generally id.*) Rather, Mr. McCaw appears to take issue with the fact that,  
17 after Uralkali served Mr. McCaw by mail, it "wait[ed] 12 days to file its purported proof  
18 of service in violation of the Order, leading Mr. McCaw to assume that Uralkali  
19 recognized it had not effected service on him." (*Id.* at 11; *see also id.* at 12 (stating that  
20 Uralkali's "application should be dismissed . . . for violation of the Court's October 24  
21 Order").)

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1       The court agrees that Uralkali failed to comply with the court’s order that it file  
2 proof of service within seven days of serving Mr. McCaw. (*See* 10/24/18 Order at 1.)  
3 The court cautions Uralkali that its orders reflect the court’s power to control the course  
4 of litigation and are not to be disregarded. Nonetheless, the court declines to dismiss  
5 Uralkali’s application on these grounds. Mr. McCaw does not allege that he was  
6 prejudiced by Uralkali’s failure to comply with the proof-of-service deadline. (*See*  
7 *generally* Resp.). Moreover, the court’s strong preference for resolving issues on the  
8 merits favors adjudication of Uralkali’s application. *Cf. Howes v. City of Seattle*,  
9 C07-1391RSL, 2008 WL 5071981, at \*1 (W.D. Wash. Nov. 24, 2008) (denying the  
10 defendant’s motion to dismiss for defects in service, despite the plaintiff’s one-year delay  
11 in serving the defendant, in light of the preference for resolving issues on the merits and  
12 the absence of prejudice to the defendant). Finally, the court finds that, although Uralkali  
13 filed proof of service five days late, it substantially complied with the court’s order  
14 directing service. *Cf. Anderson v. Country Mutual Ins. Co.*, C14-0048JLR, 2015 WL  
15 11233430, at \*2 (W.D. Wash. Feb. 9, 2015) (noting that substantial compliance is a  
16 defense to civil contempt for violation of a court order). Accordingly, the court proceeds  
17 to assess Uralkali’s application.

18       **B.     Legal Standard Governing Applications under 28 U.S.C. § 1782**

19       Under 28 U.S.C. § 1782, a district court may order a person who resides or is  
20 found in its district to produce documents or testimony for use in a foreign legal  
21 proceeding. 28 U.S.C. § 1782(a). Section 1782 “is the product of congressional  
22 efforts . . . to provide federal-court assistance in gathering evidence for use in foreign

1 tribunals.” *Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 247 (2004). Its  
2 aims are twofold: “providing efficient assistance to participants in international litigation  
3 and encouraging foreign countries by example to provide similar assistance to our  
4 courts.” *Id.* at 252 (quoting *Advanced Micro Devices, Inc. v. Intel Corp.*, 292 F.3d 664,  
5 669 (9th Cir. 2002)) (quotation marks omitted).

6 As a threshold matter, an applicant under § 1782 must satisfy the following  
7 statutory prerequisites: (1) the discovery request must be made “by a foreign or  
8 international tribunal” or by “any interested party”; (2) the request must be for “testimony  
9 or [a] statement” or for the production of a “document or other thing”; (3) the evidence  
10 gathered must be “for use in a proceeding in a foreign or international tribunal”; and (4)  
11 the person subject to the request must reside in the district of the district court where the  
12 application is pending. 28 U.S.C. § 1782(a); *Potts v. Icicle Seafoods, Inc.*, 945 F. Supp.  
13 2d 1197, 1199 (W.D. Wash. 2013); *see also In re Bayer AG*, 146 F.3d 188, 193 (3d Cir.  
14 1998) (formulating the *prima facie* showing in three rather than four parts).

15 Even if the statutory prerequisites are satisfied, “a district court is not required to  
16 grant a § 1782(a) discovery application simply because it has the authority to do so.”  
17 *Intel*, 542 U.S. at 264. Rather, a district court retains broad discretion to grant or deny a  
18 § 1782 application and to determine what discovery, if any, should be permitted. *Id.* In  
19 exercising its discretion, the court should consider the following non-exhaustive factors:  
20 (1) whether the person from whom discovery is sought is a participant in the foreign  
21 proceeding; (2) the nature and character of the foreign proceeding, and whether the  
22 foreign court is receptive to judicial assistance from the United States; (3) whether the

1 discovery request is an attempt to avoid foreign evidence-gathering restrictions; and (4)  
2 whether the discovery request is “unduly intrusive or burdensome.” *Id.* at 264-66.

### 3 **C. Statutory Prerequisites**

4 The parties do not dispute that Uralkali satisfies § 1782(a)’s four statutory  
5 prerequisites. *See* 28 U.S.C. § 1782(a); *Potts*, 945 F. Supp. 2d at 1199. First, as the  
6 plaintiff in the foreign proceedings, Uralkali is an “interested party.” 28 U.S.C.  
7 § 1782(a); (*see also* Particulars of Claim.) Second, Uralkali requests that Mr. McCaw  
8 produce certain documents and oral testimony. (Lloyd Decl. ¶ 19, Ex. B (“Subpoena”).)  
9 Third, Uralkali seeks to use Mr. McCaw’s testimony and any documents he produces in  
10 the English Action. (Mem. at 6-7.) Finally, Mr. McCaw maintains a residence in this  
11 district. (Hill Decl. (Dkt. # 1-2) ¶ 3; Resp. at 11.) Accordingly, the court finds that  
12 Uralkali’s application satisfies § 1782(a)’s statutory requirements.

### 13 **D. Discretionary Considerations**

14 Uralkali contends that all of the discretionary factors outlined in *Intel* weigh in  
15 favor of granting its application. (Mem. at 8-10.) Mr. McCaw argues that the first and  
16 fourth *Intel* factors disfavor discovery. (Resp. at 8-10.) The court analyzes each factor in  
17 turn.

#### 18 1. Participant in the Foreign Proceeding

19 The first *Intel* factor concerns whether “the person from whom discovery is sought  
20 is a participant in the foreign proceeding.” *Intel*, 542 U.S. at 264. A foreign tribunal can  
21 compel discovery from parties appearing before it, obviating the need for assistance from  
22 United States courts. *Id.* “In contrast, nonparticipants in the foreign proceeding may be

1 outside the foreign tribunal’s jurisdictional reach; thus, their evidence, available in the  
2 United States, may be unobtainable absent § 1782(a) aid.” *Id.* At first glance, this factor  
3 appears to favor granting Uralkali’s application because Mr. McCaw is not a party to the  
4 English Action.

5 As Defendants emphasize, however, courts often construe the first *Intel* factor to  
6 ask whether the material the applicant seeks is obtainable through the foreign proceeding  
7 even if held by a nonparticipant to the proceeding. *See, e.g., In re Ex Parte Application*  
8 *of Qualcomm, Inc.*, 162 F. Supp. 3d 1029, 1039 (N.D. Cal. 2016) (“[C]ourts have  
9 interpreted this [factor] to focus on whether the evidence ‘is available to the foreign  
10 tribunal,’ because in some circumstances, evidence may be available to a foreign tribunal  
11 even if it is held by a non-participant to the tribunal’s proceedings.”) (quoting *In re*  
12 *Microsoft*, 428 F. Supp. 2d 188, 194 (S.D.N.Y. 2006)); *MetaLab Design Ltd. v. Zozi Int’l,*  
13 *Inc.*, No. 17-mc-80153-MEJ, 2018 WL 368766, at \*2 (N.D. Cal. Jan. 11, 2018) (“Courts  
14 have held that ‘[a]lthough the case law at times refers to whether the “person” is within  
15 the foreign tribunal’s jurisdictional reach, the key issue is whether the material is  
16 obtainable through the foreign proceeding.”) (quoting *In re Judicial Assistance Pursuant*  
17 *to 28 U.S.C. § 1782 by Macquarie Bank Ltd.*, No. 2:14-cv-00797-GMN-NJK, 2015 WL  
18 3439103, at \*6 (D. Nev. May 28, 2015)). In *MetaLab*, for example, the court was unable  
19 to determine whether the company from which the § 1782 applicant sought discovery  
20 was a party to the foreign proceedings. *MetaLab*, 2018 WL 368766, at \*2-3.  
21 Nonetheless, the court found that the first *Intel* factor weighed against granting the  
22 § 1782 application because the defendant in the foreign action had “sent or received” the

1 requested documents and therefore likely had them “in his possession or control.” *Id.* In  
2 other words, the material the § 1782 applicant sought was available in the foreign  
3 proceeding. *Id.*

4 Here, Uralkali seeks documents and deposition testimony from Mr. McCaw falling  
5 roughly within four topics: (1) the Stroll Consortium’s internal communications about  
6 the acquisition of Force India; (2) communications between members of the Stroll  
7 Consortium and other entities, including Force India’s creditors and the Administrators,  
8 about the acquisition of Force India; (3) documents concerning the particulars of the bid  
9 process, including “any contemplated or actual arrangement[s]” between the Stroll  
10 Consortium and Force India’s creditors, owners, management team, or other third parties;  
11 and (4) communications between the Stroll Consortium and Force India’s owners.  
12 (Subpoena at 6-10 (delineating 10 document requests and 6 deposition topics).) For the  
13 most part, Uralkali’s requests implicate the Stroll Consortium’s internal communications  
14 and its communications with non-parties to the English Action. (*See id.*) With the  
15 exception of exchanges between the Stroll Consortium and the Administrators, the  
16 documents and testimony that Uralkali seeks are unlikely to be in the possession of the  
17 Administrators.<sup>2</sup> Mr. McCaw provides the court no reason to believe that, despite these  
18 circumstances, the English Court could or would order the production of the materials  
19 covered by the subpoena. (*See generally* Resp.; Subpoena at 6-10.)

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21 <sup>2</sup> For example, in pleadings filed in the English Court, the Administrators expressly  
22 disclaim knowledge of Mr. Stroll’s communications with Force India’s owners during the bid  
process. (Defence ¶¶ 16.2-16.3.)

1 Further, the court emphasizes that an applicant need not exhaust, or even  
2 commence, its discovery efforts in the foreign proceeding before resorting to § 1782. Mr.  
3 McCaw argues that the first *Intel* factor militates against permitting discovery because  
4 “Uralkali filed the Petition before seeking any discovery in the English Action.” (Resp.  
5 at 8.) However, there is “nothing in the text of 28 U.S.C. § 1782 which would support a  
6 quasi-exhaustion requirement” of the sort Mr. McCaw proposes. *See In re Application of*  
7 *Malev Hungarian Airlines*, 964 F.2d 97, 100 (2d Cir. 1992) (noting that an exhaustion  
8 requirement would contravene the “twin purposes of 28 U.S.C. § 1782 as articulated in  
9 the legislative history”); *see also In re Application of Digitechnic*, No. C07-0414JCC,  
10 2007 WL 1367697, at \*4 (W.D. Wash. May 8, 2007) (acknowledging that there is no  
11 exhaustion requirement in § 1782). Accordingly, that Uralkali did not seek discovery in  
12 the English Action before filing this application has no bearing on the court’s assessment  
13 of the first *Intel* factor.

14 For the foregoing reasons, the court is not persuaded that Uralkali could obtain  
15 through the foreign proceeding the testimony and documents it seeks from Mr. McCaw.  
16 The court thus concludes that the first *Intel* factor weighs in favor of granting Uralkali’s  
17 application.

## 18 2. Nature and Character of the Foreign Proceeding

19 The second *Intel* factor concerns “the nature of the foreign tribunal, the character  
20 of the proceedings underway abroad, and the receptivity of the foreign government or the  
21 court or agency abroad to U.S. federal-court judicial assistance.” *Intel*, 542 U.S. at 264.  
22 Uralkali asserts that “[t]here is every reason to believe that the English High Court will

1 accept evidence obtained through Section 1782 discovery in the United States.” (Mem.  
2 at 9; *see also* Lloyd Decl. ¶ 22 (“As long as it is relevant to the domestic case, English  
3 law does not contain any procedural bars on the submission or use of evidence obtained  
4 through foreign proceedings.”).) Mr. McCaw does not dispute Uralkali’s characterization  
5 of the English Court’s receptivity to discovery obtained in the United States. (*See*  
6 *generally* Resp.) The court likewise presumes that the English Court would be receptive  
7 to relevant evidence Uralkali may obtain through § 1782. *See, e.g., In re Fischer*  
8 *Advanced Composite Components AG*, C08-1512RSM, 2008 WL 5210839, at \*3 (W.D.  
9 Wash. Dec. 11, 2008) (finding that the second *Intel* factor favored the § 1782 applicant  
10 because “the English court would presumably be receptive to the introduction of relevant  
11 evidence”). The second *Intel* factor favors Uralkali.

12 3. Whether the Petitioner Seeks to Avoid Foreign Evidence-Gathering  
13 Restrictions

14 In assessing the third *Intel* factor, a district court should “consider whether the  
15 § 1782(a) request conceals an attempt to circumvent foreign proof-gathering restrictions  
16 or other policies of a foreign country or the United States.” *Intel*, 542 U.S. at 265. Mr.  
17 McCaw does not dispute Uralkali’s assertion that it “is not attempting to circumvent the  
18 United Kingdom’s discovery limits, as nothing under English law precludes the parties  
19 from obtaining evidence abroad.” (Mem. at 10 (citing Lloyd Decl. ¶¶ 20, 22-23); *see*  
20 *generally* Resp.) The court finds no indication that Uralkali seeks to circumvent any  
21 evidence-gathering restrictions that may be imposed by the English Court. The third *Intel*  
22 factor thus favors Uralkali.

1           4. Whether the Discovery Request is Unduly Intrusive or Burdensome

2           The fourth *Intel* factor concerns whether the discovery sought is “unduly intrusive  
3 or burdensome.” *Intel*, 542 U.S. at 265. In assessing this factor, a district court should  
4 apply the standards of Federal Rule of Civil Procedure 26. *See, e.g., MetaLab*, 2018 WL  
5 368766, at \*4 (concluding that the petitioner’s discovery request was overbroad under the  
6 standards of Federal Rule of Civil Procedure 26(b)(1)); *Mees v. Buiter*, 793 F.3d 291, 302  
7 (2d Cir. 2015) (“[A] district court evaluating a § 1782 discovery request should assess  
8 whether the discovery sought is overbroad or unduly burdensome by applying the  
9 familiar standards of Rule 26 of the Federal Rules of Civil Procedure.”); *see also* Fed. R.  
10 Civ. P. 26(b)(1). Under Rule 26, “[p]arties may obtain discovery regarding any  
11 nonprivileged matter that is relevant to any party’s claim or defense and proportional to  
12 the needs of the case.” Fed. R. Civ. P. 26(b)(1). Proportionality depends, in part, on  
13 “whether the burden or expense of the proposed discovery outweighs its likely benefit.”  
14 *Id.*

15           Mr. McCaw argues that the discovery Uralkali seeks is largely irrelevant to the  
16 issues in the English Action and not proportional to the needs of the case. (Resp. at  
17 9-11.) As to relevance, Mr. McCaw contends that 14 of the 16 categories of discovery  
18 that Uralkali requests “are in no way connected to the Administrators or their alleged  
19 misconduct in the Bid Process.” (*Id.* at 9 (arguing that “[o]nly the first three lines of  
20 Document Request 6 and the first seven words of Deposition Topic 3” encompass  
21 relevant topics).) Mr. McCaw further asserts that he has “no knowledge” of the  
22 Administrators’ conduct or representations during with the bidding process or Racing

1 Point's bidding strategy. (McCaw Decl. ¶¶ 4-5.) As to proportionality, Mr. McCaw  
2 argues that Uralkali's discovery request is not narrowly tailored and that the burden of the  
3 proposed discovery outweighs its likely benefit. (*Id.* at 10.)

4 The court finds that Uralkali seeks documents and testimony relevant to the claims  
5 and defenses asserted in the English Action. The pleadings in the English Court disclose  
6 several factual disputes implicating the Stroll Consortium, including: the circumstances  
7 that shaped Racing Point's winning bid, whether that bid had any objective chance of  
8 success, whether members of the Stroll Consortium were aware of the details of  
9 Uralkali's bids, and why the Administrators accepted the Stroll Consortium's bid. (*See*  
10 *Particulars of Claim; Defence.*) The topics on which Uralkali requests discovery are  
11 reasonably calculated to lead to information that may bear upon those questions.  
12 Moreover, as a matter of principle, the court is "particularly wary of denying [§ 1782]  
13 discovery on relevance grounds." *See In re Application Pursuant to 28 U.S.C. § 1782*,  
14 *249 F.R.D. 96, 107 (S.D.N.Y. 2008)* (finding it "inappropriate" to deny a § 1782  
15 application on relevance grounds "[g]iven the broadly permissive standard by which a  
16 court evaluates the relevance of discoverable material, and the parties' presentation of a  
17 factual dispute regarding the relevance of the discovery sought").

18 The court acknowledges that Mr. McCaw disclaims knowledge of much of the  
19 information Uralkali requests. (*See* McCaw Decl. ¶¶ 4-5.) But Mr. McCaw cites, and the  
20 court finds, no authority that holds that a court should deny as irrelevant or unduly  
21 burdensome an application under § 1782 simply because its target asserts that he or she  
22 has no firsthand knowledge of the information requested. (*See generally* Resp.) In fact,

1 in deciding the § 1782 application that Uralkali recently filed in the Southern District of  
2 New York, Judge Ramos concluded that the requested discovery was “neither unduly  
3 intrusive nor unduly burdensome, particularly because [Mr.] Idol disclaims knowledge  
4 and possession of much of the discovery sought by Uralkali.” (S.D.N.Y. Order at 3-4);  
5 *see also In re Application of Savan Magic Ltd.*, No. 2:17-cv-01689-JCM-NJK, 2017 WL  
6 6454240, at \*5 (D. Nev. Dec. 18, 2017) (finding that the fourth *Intel* factor weighed in  
7 favor of granting a § 1782 application in part because the respondent’s claim that he had  
8 “no responsive documents” showed that the request was not overbroad).

9 Finally, the court concludes that the discovery Uralkali requests is proportional to  
10 the needs of the English Action. Uralkali seeks to compel the production of documents  
11 generated or received between January 1, 2018, and the present, and limits its requests to  
12 sixteen clearly delineated topics. (Subpoena at 6-10.) The delimited timeframe and  
13 subject matter distinguish Uralkali’s application from the sort of open-ended petitions  
14 that courts have rejected as overbroad. *See, e.g., MetaLab*, 2018 WL 368766, at \*4  
15 (finding that the fourth *Intel* factor was not satisfied in part because the applicant’s  
16 discovery request was “not limited to a specific time frame”); *In re Ex Parte Application*  
17 *of Qualcomm, Inc.*, 162 F. Supp. 3d at 1044 (denying § 1782 application where the  
18 discovery sought was not limited to documents or information connected to the foreign  
19 proceedings and covered a span of five to 11 years). Moreover, the burden the requested  
20 discovery would impose upon Mr. McCaw is minimal, particularly in light of his  
21 representation that he lacks any responsive documents. *See, e.g., Savan Magic*, 2017 WL

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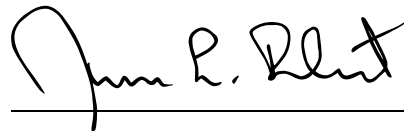
1 6454240, at \*5. Because the discovery Uralkali seeks is relevant and proportional to the  
2 needs of the English Action, the fourth *Intel* factor favors Uralkali.

3 In sum, the court concludes that Uralkali satisfies the statutory prerequisites set  
4 forth at 28 U.S.C. § 1782(a). The court further concludes that all four *Intel* factors weigh  
5 in favor of granting Uralkali's application. Accordingly, the court grants Uralkali's  
6 application.

#### 7 IV. CONCLUSION

8 For the foregoing reasons, the court GRANTS Uralkali's application pursuant to  
9 28 U.S.C. § 1782 to conduct discovery for use in a foreign proceeding. (Dkt. # 1.)

10 Dated this 23rd day of January, 2019.

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13 The Honorable James L. Robart  
14 U.S. District Court Judge  
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